

MORRIS
YORN
BARNES
LEVINE
KRINTZMAN
RUBENSTEIN
KOHNER
& GELLMAN
LAW FIRM

January 13, 2015

P. KEVIN MORRIS	CORINNE FARLEY
KEVIN YORN	ASHLEY NISSENBERG
STEPHEN D. BARNES	RYAN PASTOREK
JARED E. LEVINE	RYAN GOODELL
DAVID A. KRINTZMAN	PAUL L. CAZERS
TODD RUBENSTEIN	PRIYA VERMA
ALEXANDER P. KOHNER	ASHLEY M. BRISKMAN
GREGG GELLMAN	AILLEEN GOROSPE
LAWRENCE M. KOPEIKIN	DANIELLE JOSEPHS
JEFFREY ENDLICH	OF Counsel
NICK GLADDEN	JIM KIICK
	JONATHAN S. POLLACK
	MARVIN A. DEMOFF
	ALLISON D. JACOBY

VIA FACEBOOK

Mr. Tony Horn
<https://www.facebook.com/tony.horn.167>

RE: CEASE AND DESIST - Unauthorized Use of Intellectual Property

Dear Mr. Horn,

This law firm represents Jeff Dunham. Mr. Dunham is a world renowned stand-up comedian and ventriloquist who performs his act with a variety of well-known “dummies”. One of Mr. Dunham’s “dummies” is the character known as “Walter”. “Walter” is a character created and owned by Mr. Dunham, and is widely recognized all over the world as being directly connected to Mr. Dunham and his comedy. “Walter” appears on-stage with Mr. Dunham as a part of his live performances, he has appeared in all of Mr. Dunham’s recorded comedy specials to date, there are plans for him to appear in future recorded comedy specials, and his image and voice are used in a wide variety of copyrighted and trademarked merchandise distributed by and on behalf of both Mr. Dunham and his licensees.

We have become aware that you have created and continue to create a number of ventriloquist dummies that bear a striking resemblance to “Walter”, and that you have offered and intend to continue offering the dummies for sale, including without limitation, on eBay. Screenshots of your ventriloquist dummies from your Facebook page (located at <https://www.facebook.com/tony.horn.167>) as well as your statement of sales of such dummies on eBay are attached to this letter as “Exhibit A”. Your ventriloquist dummies bear such a striking resemblance to “Walter”, that not only could the public easily confuse them for “Walter” or otherwise mistakenly believe that they are somehow affiliated with Mr. Dunham, but it seems that you’ve intentionally designed them to look substantially like “Walter” as evidenced by a post from June 8, 2014 on your Facebook page comparing your dummies to “Walter”. Screenshots of your Facebook post comparing your dummies “Walter” is attached to this letter as “Exhibit B”.

Mr. Dunham has exclusive ownership in the very valuable copyright, trademark and other intellectual property rights associated with the “Walter” character. At no time did Mr. Dunham authorize you to use or exploit any of these rights in any manner or media whatsoever. Your unauthorized and illegal conduct, and the intended confusion resulting therefrom has caused and will continue to cause substantial damage to Mr. Dunham. Among other causes of action, your conduct constitutes a violation of numerous state and federal trademark laws, commercial misappropriation at common law, unfair business practices and false advertising.

We intend to protect Mr. Dunham’s intellectual property rights to the fullest extent allowable under the law. Accordingly, demand is hereby made that you immediately: (i) remove any and all images of any and all ventriloquist dummies bearing any resemblance to “Walter” from all locations, including without limitation your Facebook page and eBay; (ii) cease and desist from any and all further publication, promotion, advertising, distribution, sale or other exploitation of any and all ventriloquist

Mr. Tony Horn
January 13, 2015
Page 2

dummies bearing any resemblance to "Walter"; and (iii) confirm to this office in writing that you will comply with the foregoing.

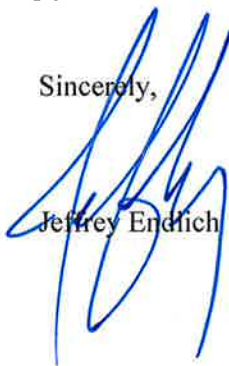
This letter is not intended as one in a series of threatening letters on this subject, rather demand is made that you respond affirmatively and immediately, failing which I have been instructed to pursue all remedies available in law and equity to enforce Mr. Dunham's rights.

Nothing contained herein shall be deemed a complete statement of any legal or factual position, or a waiver or relinquishment of any of my client's rights or remedies, all of which are hereby expressly reserved.

This letter is a confidential legal communication and is not for publication. Any publication, dissemination or broadcast of any portion of this letter will constitute a breach of confidence and a violation of the U.S. Copyright Act, and you are not authorized to publish this letter in whole or in part absent our express written authorization.

Please govern yourself accordingly.

Sincerely,

A handwritten signature in blue ink, appearing to read "JE", is written over the typed name "Jeffrey Endlich".

Jeffrey Endlich

JE/ab
Enclosures
cc: Jeff Dunham
John Power
Robert Hartmann

"Exhibit A"



Tony Horn added 4 new photos

19 hrs

Check it out not much work left to do on this guy im actually makring two replicas at the same time — with Anthony Horn.



Share

<https://www.facebook.com/tony.horn.167>

15 people like this.



██████s Haha Rusty's in the back

19 hrs



██████ Great job bro

19 hrs



Tony Horn ████████ yeah ████████ is in the pic and was very upset with me he feels im spending too much on my work when i just got back onto it i think you should have a talk with ████████ for me and make him understand my work is important

19 hrs 2



Tony Horn Thank you ████████ i really appreciate that

19 hrs 1



██████ For some reason this figure looks poised to say "Ah, shut the h*ll up!" 😏

19 hrs



Tony Horn ████████ thank you i created one like this back in July sold it for \$800.00 on Ebay but this one is looking more like the real deal

19 hrs 1

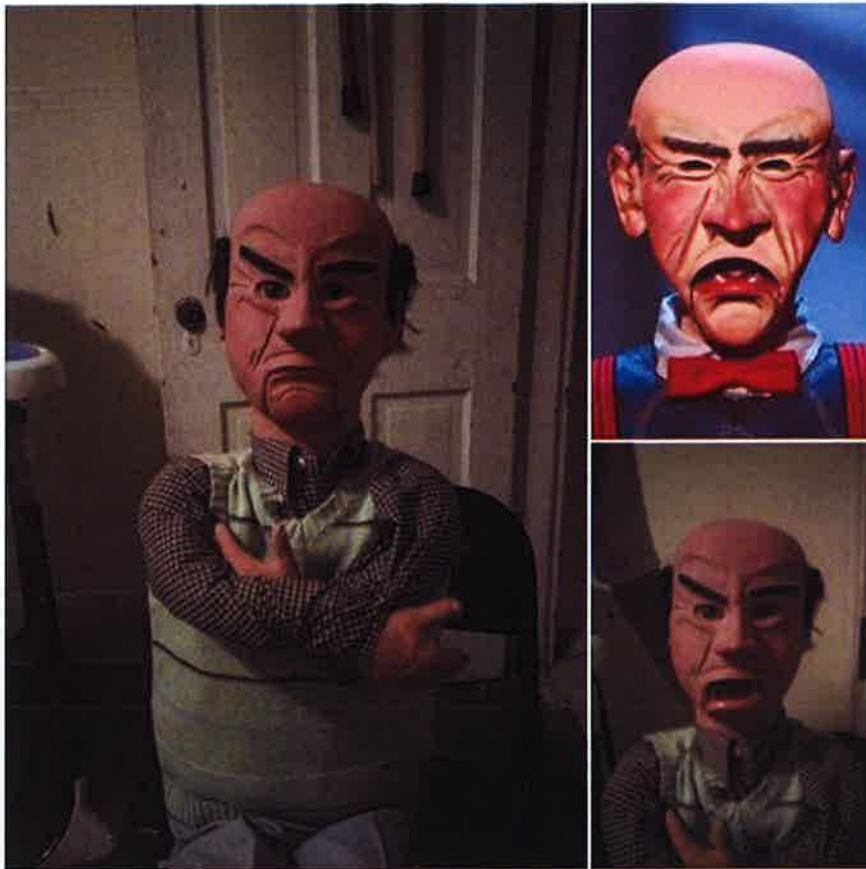
"Exhibit B"



Tony Horn added 3 new photos.

June 8, 2014 · 🌐

Compair my figure to Walter



Share

<https://www.facebook.com/tony.horn.167>

👍 17 people like this.



Great Tony Horn

June 9, 2014 at 2:09am



Very nice Tony.

June 9, 2014 at 4:48am



Amazing talent Tony!

June 9, 2014 at 4:52am



Hi Tony Horn, your figure looks very nice. I noticed one big difference the photographer who photographed Walter used a blue background I would encourage you to do the same.

Richard Curtis Photography

June 9, 2014 at 7:09am 👍 1



very nice

June 9, 2014 at 8:18am



The lawyers are on the way. (:o)

June 9, 2014 at 1:38pm 👍 1



Tony Horn **I highly doubt any lawyer would be interested**

June 9, 2014 at 7:59pm



Me too.

June 9, 2014 at 8:03pm



S ❤️

June 11, 2014 at 2:38am

EXHIBIT E
PAGE 57